## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:11-CR-00136-F-1

No. 5:16-CV-00539-F

HERMAN LEE McCRAY, JR.,

Petitioner,

v.

ORDER

UNITED STATES OF AMERICA,

Respondent.

This matter is before the court on Herman Lee McCray, Jr.'s Motion to Vacate, Set

Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-104]. Having examined McCray's

motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United

States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing Section

2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255

motion within forty (40) days of the filing of this order.

McCray asserts a challenge based on *Johnson v. United States*, 135 S. Ct. 2551 (2015), and he previously qualified for appointed counsel. Sherri R. Alspaugh with the Office of the Federal Public Defender has been appointed to represent McCray pursuant to Standing Order No. 15-SO-2 (E.D.N.C. Oct. 16, 2015).

SO ORDERED.

This 29 day of June, 2016.

JAMES C. FOX

SENIOR UNITED STATES DISTRICT JUDGE